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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,767	11/17/2003	Eugene A. Mensah	P-11092.00	2423
27581	7590	11/25/2008		
MEDTRONIC, INC. 710 MEDTRONIC PARKWAY NE MINNEAPOLIS, MN 55432-9924				
EXAMINER				
STEWART, ALVIN J				
ART UNIT		PAPER NUMBER		
3774				
MAIL DATE		DELIVERY MODE		
11/25/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/714,767

**Applicant(s)**

MENSAH ET AL.

**Examiner**

Alvin J. Stewart

**Art Unit**

3774

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20, 22 and 26 and 44 is/are pending in the application.
- 4a) Of the above claim(s) 4, 7-19 and 44 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 6, 20, 22 and 26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)
- Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed 08/25/08 have been fully considered but they are not persuasive.

After a careful examination of the Applicant's point of view, the examiner believes that the rejection still reads on the new limitations as written by the Applicant's representative. For example, the Applicant's representative entered the wherein clause "does not require a metallic filler or coating". The term "does not require" has been interpreted broadly and can be interpreted as a transitional phrase. When the term "does not require X" is applied to a sentence the above term "X" can be on the prior art but at the same time is not necessarily required.

The Examiner is interpreting this term as the transitional phrases "comprising and consisting". Both are transitional phrases but the word comprising is open-ended and the word consisting is close-ended.

For example, during job openings it is well known to use the term "does not required A, B & C" but if that candidate has the other requirement, that candidate still qualify for the job.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 5, 6, 20, 22 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Ogle et al US Patent 6,190,407.

Ogle et al discloses an implant device made of polypyrrole (see col. 6, lines 45-48). Polypyrrole is a conductive polymer that has an inherent characteristic (as mentioned by the Applicant's representative in the specification) of having a resistivity of less than 1000 ohms per square.

Additionally, Ogle et al clearly disclose a plurality of implant such as artificial heart, heart valves (see col. 5, lines 44-46), sewing rings and annuloplasty rings (see col. 7, lines 7-15) having blood contacting external surface. Also, Ogle et al discloses an external surface having at least a part of a sheath of fabric (see col. 7, lines 6-9).

Finally, the Examiner wants to show that Ogle et al clearly disclose an annuloplasty ring or sewing rings (see col. 7, lines 7 and 12) made of synthetic material (see col. 7, line 5). The synthetic material is made of a biocompatible material (see col. 7, line 4) and the biocompatible material (see col. 5, lines 61-63) can be made of doped polymers (see col. 6, lines 45-48).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ogle et al US Patent 6,190,407 in view of Carpentier et al US Patent 4,055,861.'

Ogle et al discloses the invention substantially as claimed. However, Ogle et al does not disclose an annular gap that is not closed upon itself.

Carpentier et al teaches two annuloplasty rings capable to support a deformed heart valve. Figure 2 discloses a semi annular ring for the purpose of just supporting part of a semi-deformed heart valve (see col. 1, lines 29-35 and 60-65).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Ogle et al reference with the semi annular ring of the Carpentier et al reference in order to support part of a semi-deformed heart valve.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin J. Stewart whose telephone number is 571-272-4760. The examiner can normally be reached on Monday-Friday 7:00AM-5:30PM(1 Friday B-week off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Isabella can be reached on 571-272-4749. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Application/Control Number: 10/714,767

Page 5

Art Unit: 3774

/Alvin J Stewart/  
Primary Examiner  
Art Unit 3774

November 20, 2008.